

The Appeals Board finds that claimant did suffer accidental injury arising out of and in the course of his employment. This finding is based upon the claimant's testimony that he injured his back on September 25, 1997, while carrying a vanity top and additionally aggravated or worsened that condition carrying an electric snake on September 26, 1997.

The Appeals Board also finds that claimant gave notice within ten days of September 25, 1997. Respondent's witnesses acknowledge claimant advised them of the back injury within the required ten-day period. But one of the witnesses, Ronald Godfrey, denies that claimant informed him the injury occurred at work. Gyla Godfrey, on the other hand, testifies that during a phone conversation on October 6, 1997, claimant asked her about workers compensation benefits for his injury. The Board finds the notice given to respondent satisfies the statutory requirement.

WHEREFORE, the Appeals Board finds that the Order by Administrative Law Judge Bryce D. Benedict dated December 18, 1997, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1998.

BOARD MEMBER

c: Patrick R. Nichols, Topeka, KS
James K. Blickhan, Overland Park, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director